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Gloria Carpenter, David Drummond,
William Gittere, Dennis Homan,
Dawn Jones, William Reubart,
Teresa Stark, Jon Verde
and Harold Wickham*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BENJAMIN ESPINOSA,

Plaintiff,

vs.

WILLIAM GITTERE, et al.,

Defendants.

Case No. 3:21-cv-00205-ART-CLB

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
DISPOSITIVE MOTIONS (SECOND
REQUEST)**

Defendants, Gloria Carpenter, David Drummond, William Gittere, Dennis Homan, Dawn Jones, William Reubart, Teresa Stark nka Teresa Clark, Jon Verde and Harold Wickham, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Andrew C. Nelson, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby respectfully move this Court for an extension of time to file a Motion for Summary Judgment (Second Request). This Motion is made and based upon the Federal Rule of Civil Procedure 6(b)(1)(A) and LR 26-3.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL ANALYSIS

This a *pro se* prisoner civil rights action brought by Plaintiff, Benjamin Espinosa (Espinosa), pursuant to 42 U.S.C. §1983. Espinosa is currently incarcerated within the Nevada Department of Corrections (NDOC) at High Desert State Prison (HDSP). Pursuant

1 to this Court's Screening Order, ECF No. 22, Espinosa was allowed to proceed on the
2 following claims:

- 3 • A First Amendment retaliation claim against Defendant William Gittere.
4 (ECF No. 22 at 13:14-15);
- 5 • An Eighth Amendment deliberate indifference to a need for protection against
6 Defendants William Gittere, William Reubart, Harold Wickham, David
7 Drummond, J. Verde, John Doe Kitchen Staff Sergeant, now identified as
8 Defendant Homan. (ECF No. 22 at 13: 16-19; ECF No. 36 at 2:1-2); and
- 9 • An Eighth Amendment deliberate indifference to a serious medical needs
10 claim against Doe Nurses 2-5, Doe Nurse 2 now identified as Defendant Stark,
11 Doe Nurse 3 now identified as Defendant Caldwell, and Doe Nurse IV now
12 identified as Defendant Carpenter. (ECF No. 22 at 13:20-22; ECF No. 36 at
13 2:2-4; ECF No. 44 at 1:21-24).

14 This Court entered a Scheduling Order, ECF No. 35, requiring discovery be
15 completed on February 27, 2023 and dispositive motions be filed no later than March 29,
16 2023. (ECF No. 35 at 1:14-21). Subsequently, after each party requested an extension, (*See*
17 ECF Nos. 51 & 49), this Court entered an order requiring dispositive motions be filed on or
18 before May 15, 2023. (ECF No. 52 at 2:17).

19 Furthermore, the Defendants recently answered on behalf of Defendant Gloria
20 Carpenter on March 28, 2023. (*See* ECF No. 48).

21 Additionally, the Court granted Plaintiff's Motion to Substitute, (ECF No. 50),
22 substituting in Nurse Jones for John Doe Nurse 3. (*See* ECF No. 52 at 2). In doing so, the
23 Court ordered Defense Counsel to advise the Court on or before April 12, 2023, whether
24 they can accept service for Defendant Nurse Jones. (*Id.* at 3:8-10). Then, if service can be
25 accepted on behalf of these Defendants, such Defendants shall file and serve an answer or
26 otherwise respond to the first amended complaint with sixty (60) days of the entry of this
27 Order, (ECF No. 52). (*Id.* at 3:10-13).

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1 Subsequently, the Defendants accepted service on behalf of Dawn Jones, believed to
2 be sued as Nurse Jones, on April 10, 2023. (*See* ECF No. 54). Thereafter, the Defendants
3 filed a Joinder to Answer, on behalf of Dawn Jones, on May 4, 2023. (*See* ECF No. 55).

4 **II. ARGUMENT**

5 Defense Counsel respectfully requests a thirty (30) day extension of time to file their
6 dispositive motions from the current deadline of **May 15, 2023** until **June 14, 2023**, due
7 to the recent addition of Defendant Jones, and previous, Defendant Carpenter. Defendants
8 provide the following information in accordance with Local Rule 26-3.

9 **A. Discovery Completed**

10 Defendants' Initial Disclosures

11 **B. Discovery that Remains to be Completed.**

12 No additional discovery is needed in this matter.

13 **C. Reasons why the Deadlines Were not Satisfied.**

14 Defense Counsel requests an additional thirty (30) days to file their
15 dispositive motions. Defense Counsel submits that two (2) of the Doe Defendants
16 have recently been named and are former employees for the NDOC, therefore,
17 communication with them is more difficult, and the extension of time would allow
18 an appropriate amount of time to communicate with them in order to draft, review,
19 and sign the necessary declarations to be used as exhibits for the dispositive motion.

20 Therefore, the Defendants would respectfully request an additional thirty (30) days
21 to file their dispositive motions.

22 Defense Counsel respectfully requests this time to ensure adequate and efficient
23 briefing in this case. Given the recent addition of the two (2) Defendants, the extension
24 would allow proper communication with the two in order to prepare and obtain the
25 necessary declarations to be used as exhibits for the dispositive motion. Therefore, Defense
26 Counsel makes this request in good faith and not to cause undue delay or for any other
27 improper purpose.

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Dispositive motion deadline: May 15, 2023

Joint pretrial order (if no dispositive motions filed): September 18, 2023

D. Proposed Deadlines

Dispositive motion deadline: June 14, 2023

Joint pretrial order (if no dispositive motions filed): July 14, 2023

E. Good Cause Supports this Request.

Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

This Court should find good cause supports this request. When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Defendants' second request is timely and will not hinder or prejudice Espinosa's case. Defense Counsel needs additional time to communicate with the two (2) recently identified Defendants in order to draft, and have each Defendant review and sign the appropriate declarations to be attached as exhibits for the dispositive motions. Defendants assert that the requisite good cause is present to warrant the requested extension of time.

III. CONCLUSION

Therefore, Defendants respectfully request an extension to **June 5, 2023**, to file their motion for summary judgment.

DATED this 11th day of May, 2023.

AARON D. FORD
Attorney General

By: /s/ Andrew C. Nelson

ANDREW C. NELSON, Bar No. 15971
Deputy Attorney General

Attorneys for Defendants

ORDER

IT IS SO ORDERED.
DATED: May 12, 2023.


UNITED STATES MAGISTRATE JUDGE